

The Leesburg Planning Commission met on Thursday, June 16, 2005 in the Council Chambers, 25 West Market Street, Leesburg, Virginia. Staff members present were Susan Swift, Randy Greehan, Wade Burkholder, Kevin Lawlor, Nick Colonna, Bruce Douglas, Steve McGregor, David Fuller and Linda DeFranco

CALL TO ORDER

The meeting was called to order at 7:00pm by Chairman Vaughan.

PLEDGE OF ALLEGIANCE AND ROLL CALL

Present: Chairman Vaughan
Commissioner Bangert
Commissioner Barnes
Commissioner Hoovler
Commissioner Jones
Commissioner Kalriess
Commissioner Wright
Mayor Umstattd

ADOPTION OF AGENDA

Commissioner Hoovler moved to adopt the agenda as presented:

Motion: Hoovler
Second: Jones
Carried: 7-0

APPROVAL OF MINUTES

None

CHAIRMAN'S STATEMENT

Chairman Vaughan reviewed the agenda and advised those people present for the public hearing portion of the meeting, that they would be allowed five minutes to speak on the public hearing agenda items.

PETITIONERS

None

ZONING

None

PUBLIC HEARING

TLSE 2003-0007, Jerry's Ford regarding outdoor vehicle storage in the SW quadrant of the intersection of Cardinal Park Drive and Trailview Boulevard, Lot 8A was the first item to be heard.

Robert Sevila, representative for the applicant, came forward and provided an overview of the special exception. Basically this is an application for a temporary use to park cars belonging to Jerry's Ford on a temporary basis. The special exception is requiring the lot to be paved, lighted, curb, gutter and sidewalk installed, along with landscaping. The applicant did not think this was necessary since the lot is partially paved, there is existing lighting, the other improvements would not be necessary because the lot is out of sight of public view. Mr. Sevila provided a brief history of how the storage parking began, and described the general current aesthetics of the property. He went on to say that the traffic impact is minimal and the entire arrangement would cease if Jerry's stops use, or if Nolands sells the property. They are willing to comply with any reasonable improvement requirements.

Wade Burkholder, AICP, Planner came forward to present the staff report. This site is designated as Business 1, Regional Office. The requested use is not in compliance with the land use. The I-1 will allow reasonable uses until the area is rezoned to become compliant with the Town Plan. The lot is for storage only, not open to the public. However, the zoning ordinance requires the area to be paved with a durable, dust free surface. The staff has requested that the paving be completed because it is required in the zoning ordinance. Landscaping and buffering are also required, however once again this requirement could be waived, within reason, for approval with conditions. A waiver could be requested in writing stating reasons for the waiver request. Staff recommendation is that the property be brought into compliance with the current landscaping ordinance.

At this time the Chairman opened the public hearing.

Since there were no speakers addressing this case, the hearing was closed at this point. Commissioner Jones stated that we should work to accommodate existing businesses, especially in a transitional area such as this. He would like to see the "ramp" or "apron" at the entrance be paved and would like to see the tree plantings occur. He didn't think the screening in the rear was an issue.

Commissioner Kalriess asked which areas were not paved. Mr. Burkholder pointed them out on a map. Mr. Kalriess asked how far this was from public right of way. The response was between 30 and 50 feet. He went on to ask what landscaping was required to be in compliance with the current ordinance. Mr. Burkholder responded that 5 trees and some shrubs needed to be planted. Mr. Kalriess asked what the Zoning Ordinance said with regard to temporary uses. Mr. Burkholder said the uses were described in Section 9.5 of the ordinance and essentially cover things such as carnivals, Christmas tree

sales, dog shows, festivals, etc. Mr. Kalriess asked if there was a temporary use provision for trailers used at schools. Kevin Lawlor of town staff explained that they are issued a temporary trailer permit if they are to be used only during one school year, if they require a longer period, they must file for a special exception. Mr. Kalriess asked Mr. Sevila if there was any landscaping they would be willing to proffer. Mr. Sevila said he had not been able to review any proffers, and did not know what the cost impact would be. Mr. Kalriess asked if he could put the waiver request in rather quickly. The response was yes. Mr. Kalriess suggested that rather than require the landscaping, consider limiting the temporary use, and then readdress the issue. Perhaps they could put these required trees into a tree bank, rather than have them planted and then torn out again in a few years.

Commissioner Hoovler agreed with Mr. Kalriess' suggestion. He went on to ask if there would be a fence erected? Mr. Sevila said there is an existing fence with razor wire at the top, that is locked during off hours. Mr. Hoovler feels that this is a reasonable temporary use but has some concern that the ordinance does not allow for these types of use which require such extensive improvements. Susan Swift responded that the temporary uses allowed under the ordinance do not address this type of use. They are more for the seasonal sales/festival type use. Mr. Sevila said the state code allowed for imposition of reasonable conditions for requests such as this.

Mayor Umstattd also agreed with Mr. Kalriess and she asked Randy Greehan if it was legal to permit them to go forward without the required improvements, adding the wording that would put in a timeframe of two to three years? Mr. Greehan said the timeframe should be set out and resubmitted. Through some additional information from the applicant and review of the ordinance, this could be permitted. The Mayor then asked Mr. Sevila if the Council agreed with this, would this be reviewed annually, or would they prefer two years. Mr. Sevila said this would be a matter of process, but he would prefer a 3-5 year window so that they don't have to reapply. Susan Swift said that staff would like to discuss this further with Mr. Sevila and Mr. Greehan. Having administrative review would change the process of how these types of requests are handled.

Commissioner Wright asked if the paving implies that the surface needs to be impervious. He went on to ask how the area of the special exception is set out. Mr. Burkholder explained that while it looks like two separate parking lots, the entire parcel is considered in this special exception. This is why the improvements are required along Trailview. This application put aside, how does the lack of compliance of landscaping get handled if someone complains. Landscaping maintenance is required and would be inspected for compliance. Mr. Wright asked if there was a written lease document. Mr. Sevila said he didn't believe this was the case, that he thought it was a letter. Mr. Wright asked if they would be willing to agree to make the Town an additional notified party that would advise us when and if the use terminates. Mr. Sevila said he would be willing to do this. Mr. Wright expressed concern about requiring sidewalks and landscaping. He feels that since this is in an industrial area, this is excessive. He would like to see the process simplified.

Commissioner Barnes agreed with the previous statements. He feels they should be allowed this type of use since there is a shortage of land. Mr. Barnes went on to say that he feels the Commission should vote on this at this meeting. Commissioner Bangert said she needed to see the waiver request prior to voting. Mr. Barnes said this has gone on too long for a simple request and he would like to see it move forward quickly.

Commissioner Kalriess asked if the applicant had to present the waivers in writing or could it be done at the meeting. Susan Swift replied that he does have to ask, in writing, before the end of the process. Commissioner Wright reviewed the three conditions and asked if the LDO could make the final decision. Mr. Burkholder said the parking was LDO, landscaping buffer is LDO and the frontage improvements are a variation that has to come before the Commission.

Chairman Vaughan said he feels that the property owner should have come before the Commission rather than the lessee since he is the one that changed the use of the property. This also would have allowed the Commission to ask about the non compliance of the landscaping. This has gone on for two years, however the lessee doesn't seem to have to be accountable for any of the improvements.

Commissioner Barnes said the owner doesn't need the use, the lessee does. We need to help the lessee now.

Commissioner Jones said he agreed with Mr. Kalriess' statements. This is a temporary use, and we have to be in a position to act quickly and not drag things like this out. The land use provisions need to address many different issues, making sure that there is landscaping compliance. If we want them to plant trees, then they should plant the trees. This is meaningful to the tree plan for the town.

Commissioner Kalriess clarified his statement and reiterated the tree bank concept. Again it doesn't make sense to him to plant trees now and rip them out when the property is redeveloped. If the applicant comes back with the variation, they would vote on it at a future meeting, not tonight.

Commissioner Hoovler said he would like to see the tree bank concept used and also said that he wants a written waiver request in place prior to voting.

Randy Greehan said that under Sec. 13-91 of the Subdivision Ordinance it states that the curb and gutter can only be varied by application to the Planning Commission.

Chairman Vaughan said the public hearing will be open for ten days, and closed the public hearing on the outdoor vehicle storage at this time.

ZOAM 2005-0001, Section 7.9 Noise Limitations and Enforcement Amending the Zoning Ordinance to add a decibel level based noise provision and authorizing enforcement by Zoning Division staff.

Kevin Lawlor, Assistant Zoning Administrator explained the necessity of this Zoning Ordinance amendment. Basically this will allow Zoning Division staff to enforce violations of noise at decibel levels beyond what is allowed during normal business hours.

There were no speakers on this. The public hearing was closed at this time.

Commissioner Barnes said the County decibel levels of 55 (residential) 60 (business) and 70 (industrial) are a good starting point and feels that the Town should adopt these levels also.

Commissioner Bangert agreed saying that these levels should be consistent with the County's. She asked if there were any numbers that would indicate the violations that the police have responded to so far. Mr. Lawlor said that they have worked out an agreement with the Police Department that the zoning staff would enforce this during normal business hours and the Police would enforce this after hours.

Commissioner Kalriess asked if once the town becomes more dense, do we run the risk of having the downtown area become a violation, e.g. nightclubs? Mr. Lawlor said that would be handled by the police if it becomes an issue. This basically addresses the use of machinery in residential areas.

Commissioner Jones asked if residential air handlers fall under this. Mr. Lawlor said he has never received a complaint on them.

Commissioner Barnes moved to amend the rules and vote on this tonight.

Motion: Barnes
Second: Kalriess
Carried: 7-0

Chairman Vaughan closed the public hearing with no extension.

Commissioner Kalriess moved that Amendment 2005-0001 be approved as written.

Motion: Kalriess
Second: Hoovler
Carried: 7-0

David Fuller, Chief, Comprehensive Planning, came forward and presented the revised Town Plan (May 13, 2005). He discussed the introduction, various elements, maps, and action programs set forth.

Staff recommends that the Planning commission not make any revisions to the May 13th draft Town Plan based on comments submitted to the Commission prior to the public hearing. Basically comments from six property owners were submitted. Staff feels that

changing the draft would undermine the town-wide objectives of the Plan. Two objectives specifically request land use map or text changes. The Commission should note that denial of the changes does not preclude future projects. An owner could apply for an amendment to the Plan after its adoption when the project would be evaluated on its merits.

At this point Chairman Vaughan opened the public hearing.

Brian Cullen of Key Enterprises spoke with regard to Oaklawn stating that Regional Office will be their focus. He requested that the area be considered for this designation stating that they had invested a substantial amount of money to build in that direction.

Ken Reid, 607 Talmadge Court, also representing the Environmental Advisory Commission, informed the commission that the EAC is drafting a statement asking why there is no Environmental element in the Town Plan. He submitted a marked up copy of an abbreviated version of the Town Plan, highlighting his recommendations in the various elements.

Deborah Welsh of Welsh and Lanham, representing Mark Montgomery, owner of parcel #147358896, currently zoned B-3. The parcel is located on Edwards Ferry Road between Costco and Edwards Landing. In the proposed Comprehensive Plan, this is designated as community office. This includes hotel, office, university, etc. The designation should be compatible with the surrounding area, which is regional retail. At minimum, community commercial should be considered. The parcel was planned some time ago under the current designation and will provide consumer retail uses that will serve the residents of the area. She requested a reconsideration of the community office designation.

Steven Teets, Edens and Avant, a partner with Centex Homes on the Meadowbrook project. Currently they are being reviewed under the old Town Plan. They agree with the new town plan as it relates to the environmental considerations of the site. They redesigned the plan to keep clear of the floodplain area and some historically significant areas. He did question the new designation of 100K square feet on 30 acres of land. There is a small retail area surrounded by predominantly residential zoning. This severely limits what types of commercial businesses could be developed. A grocery store of moderate size would require at least 50K – 60K square feet, leaving only 40K square feet for other uses. They envision a larger, more functional area.

Sally Gillette of Walsh Colluci came forward to speak about the Meadowbrook development. They recently submitted a redirected plan with an updated design concept that incorporates a neotraditional feel. She agreed that the limit of 100K square feet of commercial space will kill the vitality that they are trying to incorporate. Meadowbrook's mixed use center is proposing an FAR of 0.22. They are proposing over 300K of commercial space which is in conformance of the 1997 Town Plan. They are requesting consideration of a larger commercial area.

Pat Horrocks of 350 Sycolin Road SE stated that the land use map perpetuates a mistake of the Beauregard Hill. This is currently low density residential. She would like to see this area designated either office 1 or Business 3 as the surrounding parcels are zoned.

Joe Kitka and Bob Bunch of Six Seven Corporation, came forward as owners of a 6-acre tract north of Rt. 7. Their parcel is designated as community commercial. Under the 1997 Town Plan they are designated as Regional Office and would like to see this designation remain. They see no rationale for the change other than possible transportation issues. They have begun planning the area going by the current designation and would like to see that designation stay in place.

Benjamin Leigh of Mims, Atwill & Leigh, PC came forward representing a landowner near the Horrocks property on Sycolin Road. There are only two or three community commercial designations on the land use map. This does not seem to be good planning. The property will be bounded by the intersection of Sycolin Road and Battlefield Parkway. He also requested that the low density residential designation be changed to a commercial/office designation.

Chairman Vaughan closed the hearing at 9:45pm and brought the meeting back to the Commission level.

Commissioner Bangert asked how they were going to be reviewing the comments made. Susan Swift said they need to review the items tonight, however, they could be readdressed in the future. The staff's recommendation is that they stick with the draft plan as submitted.

Commissioner Wright thanked the public for their ongoing involvement and the staff for the work put into the draft.

Commissioner Hoovler again thanked the public and said they will consider the comments as presented. He agreed that the comments need to be covered one by one.

Commissioner Kalriess said that yes, they had to go through the comments point by point, stating that he had some very specific comments.

Commissioner Jones agreed.

Chairman Vaughan then opened up the discussion on the draft plan. It was suggested that the Commission refer to the June 16, 2005 written public comments memo that was part of their packet.

Oaklawn – Staff recommends leaving the existing designation.

Commissioner Jones addressed Mr. Cullen and said that the town is committed to this project. He agreed with the staff to leave the designation as Community Office/Light

Industrial. One of the main reasons is the proximity to the airport and compatible uses in that area.

Commissioner Kalriess stated that the concern was the end of the runway and the FAR allowed in this area. He agrees with the staff recommendation.

Commissioner Hoovler agreed with the staff recommendation.

Commissioner Bangert referred to the Airport Commission's presentation that showed the flight patterns. Why, on the Peterson tract can they have regional office, but not on the Oaklawn tract? David Fuller explained why the designations were put in as they were based on FARs. Susan Swift said that Peterson tract has higher density and offers more traffic options than the Oaklawn site.

Commissioner Jones asked Mr. Cullen what the impact of not having regional office designation. Mr. Cullen responded that the regional designation opens up more options for them than does the community commercial or community office. This is important to them because of their location along the Greenway. Commissioner Jones asked what the harm of regional office would be.

Commissioner Wright said he sees the FAR as the major difference and really doesn't see any reason for concern.

Commissioner Kalriess said he feels that the message sent out with the current designation could make businesses hesitate to come to the area. He feels that if they embellish the language in community office, they can clarify the statement.

Commissioner Hoovler agreed with Mr. Kalriess' suggestion to embellish the language and include such terms as "corporate office", "emerging technology" etc.

Cardinal Park Industrial Area – Staff recommends leaving the Regional Office designation as it is.

All commissioners present agreed with the staff recommendation on this area.

Leegate – Staff recommendation is to leave the regional office designation, with the optional use guidelines, as it is.

Commissioner Jones mentioned that perhaps the entire submission process needed to be reviewed to allow for flexibility when it's appropriate. He agrees with the staff recommendation.

Commissioner Kalriess said the way the plan is currently written, if someone owns 10 acres of land, they can build 100K s.f; if they own 126 acres, they can build 100K s.f. of commercial space. Because of the height restrictions this limits the amount of

retail/commercial space that can be put in this area. He would like to readdress the FARs and space limitations, and be able to review applications on a case by case basis

Commissioner Bangert requested that further discussion on Leegate wait until Ms. Colleen Snow returns to the meeting.

Stanford Property - Staff recommendation is to leave the regional office designation, with the optional use guidelines, as it is.

Commissioner Jones does not want to see any regional center evolve on this land, however a good community commercial would be welcomed. He agreed with staff's recommendation.

Commissioner Kalriess commented that he would like to see the square footage changed from 100K to 250K.

Commissioner Hoovler agreed but said that staff needs to review this carefully on a case by case basis. If the retail is expanded, stores would come in that would compete with the downtown area.

Commissioner Wright said the property is designated community commercial which limits the size of the commercial space that can be built. He agrees, that possibly there could be a increase consideration on a case by case basis.

Commissioner Bangert asked whether a focus on FAR could be the answer. She feels that citizens really don't want to see any commercial. There needs to be a balance.

Sally Gillette came forward and asked about the limitations of residential in the Community Commercial zone.

David Fuller responded that there had been extensive discussion on this that resulted in caps on the size of stores and the amount of residential in direct correlation with these sizes.

Commissioner Kalriess reiterated that they can cap the size of the anchor store and then increase the cap percentage of the additional space. Susan Swift cautioned that they were sizing active applications and needed to be careful.

Commissioner Wright asked if these caps would cause more problems rather than relying on the FAR. Susan Swift said keeping the caps would allow us to keep the character requested.

Randy Greehan said any current applications would fall under the 1997 plan, if the new plan were adopted, then it would be the new plan. Refer to the FAR and specify square footage.

Commissioner Wright said they envision one anchor grocery store and smaller support stores. The anchor should be capped at 70Ksf with the remainder of the smaller support stores taking up the additional 80Ksf, based on allowing a 150Ksf commercial area.

Hamblet Property – staff recommends leaving the low density residential designation.

Commissioner Jones said this area is in a difficult situation. The owner would like to see the designation changed to Regional Office. Mr. Jones agreed that this would be a compatible use and better than the low density residential.

Commissioner Kalriess agreed that an office site would be a better use for this area. He has some concerns about the transportation issues in this site.

Commissioner Hoovler agreed with the staff recommendation.

Mayor Umstattd agreed with Commissioners Jones and Kalriess and said that office makes more sense in this area and agrees with the owners' request.

Commissioner Wright said the only access will be from a road behind the site, therefore it should remain low density residential.

Commissioner Bangert said the transportation improvements are up to the owners, not us. She agrees that regional office makes the most sense for the area.

The consensus of the Commission was that this should be designated Regional Office.

SixSeven Corporation – staff recommends maintaining the low density residential designation.

Commissioner Hoovler asked about the maximum FAR desired.

Bob Bunch envisions a phase scenario where they would start with a 50Ksf and ultimately have Regional office with a higher FAR.

Commissioner Wright said that whatever designation is put in, should go all the way to the school. Should it be community office or to make it compatible with the other side of Battlefield.

Commissioner Kalriess said this site is backing varied uses. Community office makes more sense to maintain the proper density.

Commissioner Jones referenced the roadway map and said that Keystone Drive needs to be proffered and would enter this site. It would create good access for Regional Office.

Hakim Associates – staff recommends leaving the major open space designation.

All commissioners agreed with the staff recommendation on this.

Peterson Companies – staff recommends leaving the regional office designation as it is.

All Commissioners agreed with the staff recommendation on this.

Chairman Vaughan then went on to open discussion on the June 8 memo in the packet. The Commission agreed to all revisions listed in the memo dated June 8, 2005 regarding the Public Hearing for the Revised Draft Town Plan.

Commissioner Bangert said there were two more parcels of land that needed to be discussed, namely the parcel on Edwards Ferry Road and on Sycolin Road.

David Fuller began with the Edwards Ferry parcel saying the idea for community office there was because it was a relatively small parcel and the transition between regional commercial and residential was needed. There was some discussion about the types of uses that would work there and the Commissioners came to a consensus that this parcel should keep its current designation.

Deborah Welsh came forward and stated that office will not work on this site. There are already big box retailers there and community commercial would be the obvious transition to the residential area. Small retail uses are supported by large retail.

With regard to the Sycolin Road parcel, residential is bad planning for that area. The transportation problems would be compounded. Community commercial makes sense, but the topography could be a challenge. Mayor Umstattd suggested that a daycare center could work in the area. Commissioner Hoovler said there had been an application for the Horrocks property as residential and it did not work. Community office is really the best use for the property.

Discussion went back to the Leegate property. It was noted that Colleen Snow had reentered the meeting.

Commissioner Bangert recapped the designated use of the parcel emphasizing the retail/residential percentage mix. Commissioner Wright asked for a clarification of the percentages.

David Fuller said that Regional Office means that the primary use is Regional office along with the option for development that could include office/commercial/residential mix.

Commissioner Jones asked about the flexibility of the designation, stating that he would not like to see anything be too restrictive. David Fuller said that percentages need to be put in for some control of the mix

Colleen Snow of Cooley Godward came forward to address the use they foresee for the Leegate property. She said their plan is trying to provide flexibility so that the town can see that the site is developed in a compatible way.

Commissioner Hoovler asked what percentage of this would be retail. Ms. Snow said right now about 25%. Mr. Hoovler went on to ask what the largest tenant would be square footage wise. Ms. Snow responded that they have not yet broached that subject.

Commissioner Kalriess would like to see the percentage for total building retail use per square foot be increased from ten percent to fifteen to twenty percent. He does not want to see the area attract a regional mall. He also asked that the term office be defined. Professional offices, service related firms, and also define the retail such as daycare, gyms and dry cleaners as examples. Susan Swift said this is defined in the Zoning Ordinance and if it is too specific in the town plan, it will undermine the zoning.

Chairman Vaughan asked about the vote on this next week. Susan Swift commented that any comments that come in from this point on will be deferred to the Commission without any further staff comment.

Mike Wilkins came forward and asked about the southwest sector that is the only area included in the Town Plan. By including this, does it mean that area will be annexed or is it only included as reference. David Fuller explained that the land uses indicated in that area is what we would like to have control over, however technically we have no jurisdiction in the area.

Commissioner Bangert moved to leave the Town Plan area site designations open for public comment for the next five days.

Motion: Bangert
Second: Hoovler
Carried: 6-0

SUBDIVISION AND LAND DEVELOPMENT

None

COMPREHENSIVE PLANNING

None

COUNCIL AND REPRESENTATIVES REPORT

None

STAFF AND COMMITTEE REPORTS

Susan Swift said that the Crescent District Master Plan meeting should be moved to July 21 in order to allow Commissioners to meet individually with the consultant to review what is available.

Commissioner Jones reiterated that the Commission is the steering committee on this plan. He would like to recommend using subcommittees because he doesn't feel that the proper attention is being paid to this important project. He suggests two member committees for the Crescent District and the JLMA to concentrate on these issues.

At this point Chairman Vaughan excused himself from the meeting, as did Commissioner Hoovler.

Vice Chairman Wright proceeded with the remainder of the meeting.

Susan Swift reviewed some handouts that were given to the Commission. She went on to say that the Meadowbrook resubmission came in yesterday.

OLD BUSINESS

None

NEW BUSINESS

Commissioner Kalriess would like to see the Commission consider revision of the way they review applications. Review it after the first staff comment for developments over 25 acres.

Susan Swift asked that they meet with the attorney and zoning staff prior to bringing this to the Commission. She also said that this will have to happen further down the line since right now the Town Plan takes priority.

Commissioner Jones again suggested that a subcommittee be formed to study this also.

ADJOURNMENT

The meeting adjourned at 11:53 pm.

Prepared By

Approved by:

Linda DeFranco, Commission Clerk

Clifton Vaughan, Chairman

